

CHAPTER 172
DECLARATORY RULINGS
[Prior to 7/29/87, Health Department[470] Ch 172]

641—172.1(17A) Petitions for declaratory rulings.

172.1(1) Any interested person or agency who is affected by any departmental statutory provision, rule, or other written statement of law or policy, decision or order of the department may file a petition for a declaratory ruling as to the applicability of such statutory provision, rule, or other written statement of law or policy, decision, or order to that person or agency. The petition shall be filed with the Director, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. The petition should be mailed to the director by certified mail, return receipt requested, or delivered in person. Any written data or arguments including briefs may be submitted along with the petition.

A petition for a declaratory ruling which is filed shall contain:

a. A caption in the following form:

BEFORE THE IOWA STATE DEPARTMENT OF HEALTH
LUCAS STATE OFFICE BUILDING
DES MOINES, IOWA

IN THE MATTER OF THE PETITION
OF _____(petitioner's
name) FOR A DECLARATORY RULING
ON _____(provide
statute or rule number or other matter)

}

PETITION FOR
DECLARATORY RULING

DOCKET NO. _____

- b.* The petition shall state in separate numbered paragraphs the following:
- (1) Petitioner's name and address.
 - (2) State clearly the question or questions upon which the petitioner requests a declaratory ruling.
 - (3) Specifically identify the statute, rule, written statement of law or policy, decision or order and the particular aspect of it to which the request is addressed.
 - (4) State clearly and particularly all relevant facts which give rise to the request for a declaratory ruling.
 - (5) State the nature of petitioner's interest in the subject matter.
 - (6) The signature of the petitioner or of a duly authorized officer of the petitioner, if it is a corporation or other legal entity.

172.1(2) The department will refuse to issue a declaratory ruling if one or more of the following circumstances exist:

- a.* The subject matter of the requested declaratory ruling is one in which the department has no authority to issue a binding decision or the petitioner is not an interested party.
- b.* The petition does not state with enough specificity the factual situation involved or the question presented such that the department can:
 - (1) Determine what the question is, or
 - (2) Respond with a specific ruling that will be binding upon the parties.
- c.* The factual situation is so complex that a declaratory ruling is not feasible; or
- d.* The subject matter is in litigation in the court or by administrative hearing.

172.1(3) The written response to the petition either in the form of a declaratory ruling or a denial of such shall be signed by the director and sent to the petitioner within 30 days following the date on which the petition was received by the department.

[Filed 3/18/76, Notice 2/9/76—published 4/5/76, effective 5/10/76]

[Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]